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IV 2375584

Subject Admonition Form not signed by Subject Doeve

Potential Manual of Policy and Procedures violations

INTERNAL AFFAIRS BUREAU

INVESTIGATIVE SUMMARY

IV 2375584

SUBJECT: **ALEXANDER J. DOEVE, DEPUTY, #[redacted]**

DATE(S) / TIME OF INCIDENT: **FEBRUARY 27, 2015, 2241 HOURS**

ALLEGATIONS:

On February 27, 2015, Subject Alexander Doeve was involved in an off-duty incident in Norco, CA. He failed to report the incident to the Department, until March 1, 2015. It is alleged Subject Doeve made false statements to the Riverside County Sheriff's Department during their investigation regarding the incident.

SYNOPSIS:

Subject Alexander Doeve was at Maverick's Bar, located at 3841 Old Hamner Road, Norco, CA, on February 27, 2015. The [redacted] of Maverick's Bar, Witness [redacted], became aware that Witness [redacted] was at the bar. Witness [redacted] collided with Witness [redacted] vehicle approximately three weeks earlier, and fled the scene. Witness [redacted] and one of his security personnel, Witness [redacted], contacted Witness [redacted] to obtain insurance information.

Witnesses [redacted], [redacted], and [redacted] walked outside near Witness [redacted] vehicle. Witness [redacted] did not believe Witness [redacted] provided accurate identification and insurance information. He informed Witness [redacted] he intended to call the Riverside County Sheriff's Department. Witness [redacted] fled on foot because there was a warrant for his arrest. Subject Doeve was not involved in the discussion between Witnesses [redacted] and [redacted], but saw Witness [redacted] flee. There was no physical confrontation between any of the witnesses.

Later that evening, Witness [redacted] told Riverside County Sheriff's Department Deputy [redacted] he was confronted by Subject Doeve on a hillside after he fled Maverick's Bar. Subject Doeve shined a light in his face, identified himself as law enforcement, and displayed a Taser. Witness [redacted] told Riverside County Sheriff's Department Deputy [redacted] he did not believe Subject Doeve was a deputy and walked toward him, at which time Subject Doeve pointed a handgun at his head, causing him to flee. According to Witness [redacted], Subject Doeve was approximately fifteen yards away when he confronted him, and there was never any physical contact between them.

IAB Note: **Witness [redacted] initially described the handgun as a silver revolver in the Riverside County Sheriff's Department report. He later described the weapon as a black semi-automatic.**

Riverside County Sheriff's Department Deputy [redacted] indicated the following in a report: Subject Doeve called his personal cellular telephone on February 28, 2015, at 0240 hours. Subject Doeve told Deputy [redacted] he followed Witness [redacted] and identified himself as a deputy. When Witness [redacted] made a "suspicious movement," Subject Doeve interpreted it as a threat, and pointed his firearm at Witness [redacted]. Witness [redacted] fled. Subject Doeve told him Witness [redacted] called Maverick's Bar and made threats against Witness [redacted]. See Riverside County Sheriff's Department reports attached as **[EXHIBIT A]**.

IAB Note: **Subject Doeve said he was at Maverick's Bar to ensure his [redacted] safety on her drive home. His [redacted] was previously assaulted in the parking lot of Maverick's Bar. Subject Doeve obtained Witness [redacted] cellular telephone number during the investigation regarding the assault.**

Deputy [redacted] contacted Subject Doeve at Maverick's Bar later that night. Subject Doeve told Deputy [redacted] his "official statement" was that he remained at the bar all night and did not point his weapon at anyone. Subject Doeve said he did not want his name to appear in the report.

Riverside County Sheriff's Department Deputy [redacted] contacted Subject Doeve via telephone on February 28, 2015, and interviewed him again regarding the incident. Subject Doeve told Deputy [redacted] he did not follow, confront, or point his handgun at Witness [redacted]. Deputy [redacted] audio recorded this interview **[EXHIBIT A]**.

On March 1, 2015, Subject Doeve contacted Men's Central Jail Sergeant Van Genderen to report an off-duty incident. Subject Doeve told Sergeant Van Genderen he located Witness [redacted] in an attempt to convince him to exchange information regarding the traffic collision. Subject Doeve told Sergeant Van Genderen he contacted Witness [redacted] a short distance from Maverick's Bar, and identified himself as a deputy. Witness [redacted] lunged at him, and Subject Doeve pointed his Department issued Beretta at him. Subject Doeve told Sergeant Van Genderen he reported his actions to Riverside County Sheriff's Department Deputy [redacted] on the night the incident occurred.

Subject Doeve also told Sergeant Van Genderen he was contacted by a second deputy (Riverside County Sheriff's Department Deputy [redacted]) the day after the incident. He told the second deputy he had not followed or pointed his firearm at anyone. Subject Doeve told Sergeant Van Genderen he changed his story with the second deputy because he was scared and confused. See memorandum from Sergeant Van Genderen to Captain Joseph Dempsey **[EXHIBIT B]**.

IAB Note: **Subject Doeve denied he followed, confronted, or pointed his firearm at Witness [redacted] during his interview with the Internal Affairs Bureau. Subject Doeve denied he told Deputy [redacted] or Sergeant Van Genderen he followed, confronted, or pointed his firearm at Witness [redacted].**

INVESTIGATION:

Internal Affairs Bureau investigators interviewed the below personnel and witnesses. Following is a summary of their interviews. For more information and precise wording, see the attached verbatim interview transcriptions.

Subject Doeve was interviewed by IAB Sergeants Dennis Watters, #[redacted], and Kimberly Mendoza, #[redacted], on December 29, 2015. Subject Doeve said he was at Maverick's Bar to ensure his wife's safety on her drive home. His [redacted] was employed by Maverick's Bar, and she was previously assaulted in the parking lot.

Subject Doeve said Witness [redacted] and one of the bar's bouncers contacted Witness [redacted] regarding a previous hit and run. During the conversation, Subject Doeve saw Witness [redacted] flee the location on foot. Subject Doeve was not involved in the conversation between the hit and run parties.

Subject Doeve had no contact with Witness [redacted]. He did not follow or confront Witness [redacted] after he (Witness [redacted]) fled Maverick's Bar. He did not point his firearm at anyone. Subject Doeve remained at the bar until after closing.

Subject Doeve learned Witness [redacted] called the bar and made threats against the staff, so he called Riverside County Sheriff's Department Deputy [redacted] to request he come to the bar and talk to Witness [redacted]. When Deputy [redacted] arrived, he asked to see Subject Doeve's firearm and Department identification. Subject Doeve provided his identification, and allowed Deputy [redacted] to remove his Beretta from his front waistband. Subject Doeve said he had no other firearms, Tasers, or stun guns of any type on his person. He did not have a flashlight, or a light mounted on his Beretta. Subject Doeve did not tell Deputy [redacted] he followed, contacted, or pointed his firearm at Witness [redacted]. Subject Doeve did not see anyone follow Witness [redacted].

The next day, Subject Doeve received a telephone call from a second Riverside County Sheriff's Department deputy (Deputy [redacted]). Subject Doeve told Deputy [redacted] he did not follow, contact, or point his firearm at Witness [redacted]

On Sunday, March 1, 2015, Subject Doeve received a telephone call from Deputy [redacted]. Deputy [redacted] informed him that he already advised his sergeant that Subject Doeve followed Witness [redacted]. Deputy [redacted] said Witness [redacted] lunged at Subject Doeve, who pointed his firearm at him. Deputy [redacted] told Subject Doeve everything was fine and not to worry about it. Subject Doeve said Deputy [redacted] faced

potential discipline for failure to author a report regarding the allegations made by Witness [redacted].

Subject Doeve said he never told Riverside County Sheriff's Department Deputy [redacted] he followed, confronted, or pointed his firearm at Witness [redacted]. Subject Doeve felt he was potentially a suspect after his conversation with Witness [redacted], so he called Sergeant Van Genderen at Men's Central Jail to report Deputy [redacted] inaccurate depiction of his actions. Subject Doeve said he understood the Department's policies regarding off-duty incident reporting, because he was involved in previous off-duty incidents. He did not notify the Department on the night the incident allegedly occurred because he had not taken any police action.

Subject Doeve said he never told Mens Central Jail Sergeant Van Genderen he followed, confronted, or pointed his firearm at Witness [redacted]. Subject Doeve denied he told Sergeant Van Genderen he changed his story when he spoke with Deputy [redacted] because he was scared.

Subject Doeve said he consumed no alcohol on the night of the incident.

Sergeant Jason Van Genderen was interviewed by IAB Sergeant Dennis Watters, #[redacted], on January 2, 2016. Sergeant Van Genderen was assigned to Men's Central Jail when Subject Doeve notified him regarding an off-duty incident on March 1, 2015.

Sergeant Van Genderen confirmed the memorandum he authored **[EXHIBIT B]** was an accurate representation of Subject Doeve's telephonic statement. Subject Doeve told Sergeant Van Genderen he followed and contacted a hit and run suspect after he fled Maverick's Bar in Norco, on February 27, 2015. Subject Doeve identified himself as an off-duty deputy, and, when the suspect lunged at him, he pointed his Beretta at the suspect. Subject Doeve said he reported his actions to Riverside County Sheriff's Department Deputy [redacted]

Sergeant Van Genderen said Subject Doeve told him he was contacted the following day (February 28, 2015) by "Deputy [redacted]" (Deputy [redacted]. Subject Doeve denied he followed, confronted, or pointed his firearm at Witness [redacted] in his statement to this second deputy. Subject Doeve said he changed his story with the second deputy because he was scared and confused.

Sergeant Van Genderen contacted Riverside County Sheriff's Department in an attempt to determine if Subject Doeve was identified as a suspect in a criminal case. He spoke with Riverside County Sheriff's Department Sergeant [redacted], who was not able to locate any report regarding the incident. Sergeant Van Genderen did not speak with Deputies [redacted] or [redacted]

Riverside County Sheriff's Department Deputy [redacted] spoke to IAB Sergeant Watters via telephone. He confirmed there was an active internal investigation by Riverside County Sheriff's Department regarding the incident. He

initially agreed to an interview, and scheduled an appointment for November 18, 2015. Riverside County Sheriff's Department Sergeant [redacted] ordered him not to participate in an interview until the conclusion of their internal case.

On January 4, 2016, Riverside County Sheriff's Department Sergeant [redacted] told Deputy [redacted] that he was eligible to participate in the interview. Deputy [redacted] did not respond to this request. Deputy [redacted] declined to participate in the interview, but confirmed his report was accurate via email **[EXHIBIT C]**.

> **IAB Note:** **Riverside County Sheriff's Department will not order Deputy [redacted] to participate in an interview with Los Angeles County Sheriff's Department Internal Affairs Bureau, per Sergeant [redacted].**

Riverside County Sheriff's Department Deputy [redacted] was interviewed by IAB Sergeant Dennis Watters, #[redacted], via telephone on November 23, 2015. He conducted additional investigation regarding the incident and summarized his interviews in a report, see **[EXHIBIT A]**.

Deputy [redacted] contacted Subject Doeve via telephone. Subject Doeve denied he followed or chased Witness [redacted] from the bar. Subject Doeve said he did not point his firearm at anyone.

> **IAB Note:** **Audio recordings of Deputy [redacted] interviews with Subject Doeve, and interviews with Witnesses [redacted], [redacted], [redacted], and [redacted] are attached as [EXHIBIT A].**

Deputy [redacted] contacted Witness [redacted] and obtained surveillance video of the incident. Deputy [redacted] said the video did not depict Subject Doeve involved in the conversation between Witnesses [redacted] and [redacted], nor did it depict Subject Doeve follow Witness [redacted] when he fled.

> **IAB Note:** **Deputy [redacted] referred IAB investigators to Riverside County Sheriff's Department Sergeant [redacted] to obtain a copy of the video. A copy of this video was not available, per Sergeant [redacted].**
>
> **Witness [redacted] no longer possessed the video.**

Deputy [redacted] was told the following during a conversation with Deputy [redacted]

- Subject Doeve called Deputy [redacted] personal cellular telephone on the night of the incident.
- Subject Doeve told Deputy [redacted] he chased someone (Witness [redacted]), identified himself, and pointed his gun at him.

- Subject Doeve called Deputy [redacted] again, after he (Subject Doeve) spoke with Deputy [redacted] on the telephone. He apologized for the incident, and told Deputy [redacted] he wished to speak with Deputy [redacted] again.

Deputy [redacted] left a message for Subject Doeve, but his call was not returned.

Witness [redacted] was interviewed by IAB Sergeant Dennis Watters, #[redacted], via telephone on November 18, 2015. Witness [redacted] was the owner of Maverick's Bar.

Witnesses [redacted] and [redacted] contacted Witness [redacted] regarding a hit and run in which Witness [redacted] damaged Witness [redacted] vehicle, approximately two to three weeks previously. Subject Doeve does not work for him.

Witnesses [redacted], [redacted], and [redacted] walked to Witness [redacted] vehicle in the parking lot. Witness [redacted] stated his intent to contact Riverside County Sheriff's Department, and Witness [redacted] ran approximately one quarter mile to the east. Witness [redacted] said no one chased Witness [redacted] Witness [redacted] watched him run until he disappeared between two commercial buildings. Witness [redacted] did not see Subject Doeve follow Witness [redacted], and was not present during any contact between the two.

Witness [redacted] did not know if Subject Doeve was intoxicated at the time of this incident, but said he has not seen him intoxicated. Witness [redacted] did not see a firearm or Taser in the possession of Subject Doeve.

Witness [redacted] was interviewed by IAB Sergeant Dennis Watters, #[redacted], via telephone, on November 18, 2015. Witness [redacted] was employed as [redacted] at Maverick's Bar.

Witness [redacted] recognized Witness [redacted] as the person responsible for a hit and run collision with the bar owner, Witness [redacted] vehicle on a prior occasion. He notified Witness [redacted], and then asked Witness [redacted] to step outside with him. Witness [redacted] met them outside and they walked to Witness [redacted] vehicle in the far corner of the property.

Witness [redacted] provided a false name when they exchanged information, and Witness [redacted] decided to call Riverside County Sheriff's Department. Witness [redacted] scaled a small fence and ran away to the east. Witness [redacted] did not see anyone chase Witness [redacted]

Witness [redacted] asked Subject Doeve to come outside a short time later because he knew Subject Doeve was a law enforcement officer. Witness [redacted] saw Subject Doeve walk in the direction Witness [redacted] fled. He believed Subject Doeve went to AM/PM to obtain chewing tobacco. Witness [redacted] did not know when Subject Doeve returned to the bar.

Witness [redacted] said Subject Doeve was not employed by Maverick's Bar. He did not believe Subject Doeve was intoxicated, and said Subject Doeve generally drinks one to two beers while at the bar. Witness [redacted] did not see a firearm or Taser in the possession of Subject Doeve.

Witness [redacted] did not respond to Internal Affairs investigators written and telephonic requests for an interview. See letter to Witness [redacted] **[EXHIBIT D]**.

> **IAB Note:** **Riverside County Sheriff's Department Deputy** [redacted] **wrote in his report that Witness** [redacted] **told him he was employed as security at Maverick's Bar. He did not see Subject Doeve follow Witness** [redacted]

Witness [redacted] was interviewed by IAB Sergeant Watters, #[redacted], via telephone, on November 19, 2015. Witness [redacted] was approached by Witness [redacted] and his bouncers when he arrived at Maverick's Bar. They accused him of colliding with Witness [redacted] vehicle on a previous visit, and detained him. Subject Doeve was inside the bar and not present for this contact.

Witness [redacted] provided his insurance information, but Witness [redacted] indicated his intent to contact the police. Witness [redacted] had a warrant, so he ran away, approximately one quarter mile to the east.

Subject Doeve approached Witness [redacted] on a hillside, approximately ten minutes after he fled Maverick's Bar. Subject Doeve was approximately fifteen yards away and said, "Freeze, I'm gonna take you down, LA Sheriff's." He had a flashlight and badge in one hand, and sparked a Taser in the other hand. Witness [redacted] said it was very dark on the hillside, but he knew it was Subject Doeve. He said Subject Doeve was a bouncer at Maverick's Bar, and he did not believe he was a police officer. Subject Doeve was dressed in the same attire as the other bouncers; black pants, a black shirt with pinstripes, and a black hat.

Witness [redacted] told Subject Doeve, "You ain't gonna take me down," and walked toward him. Witness [redacted] was approximately ten yards away when Subject Doeve pointed a black semi-automatic handgun at him. Witness [redacted] ran away, fell down a cliff, and injured his left leg and hand.

> **IAB Note:** **Witness** [redacted] **did not provide IAB Investigators with photographs of his injuries as agreed.**



OFFICE OF THE SHERIFF



COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM MCDONNELL, SHERIFF

February 25, 2016

Deputy Alexander J. Doeve, #[redacted]
[redacted]

Dear Deputy Doeve:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business March 17, 2016.

An investigation under IAB File Number 2375584, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations, and Orders; and/or 3-01/040.70, False Statements; and/or 3-01/040.76, Obstructing an Investigation; and/or 3-01/030.05, General Behavior; and/or 3-01/000.13, Professional Conduct, on or about February 27, 2015 and/or February 28, 2015, while off-duty, you knowingly provided false and misleading statements to Riverside County Sheriff's Department (RCSD) deputies during the course of their criminal investigation, when after being involved in an incident where Complainant [redacted] alleged that you followed him and pointed a firearm at his head. You provided false information to Riverside County Sheriff's deputies regarding your involvement, bringing discredit and embarrassment upon yourself and/or the Los Angeles County Sheriff's Department, as evidenced by but not limited to:

a. Stating to RCSD Deputy [redacted] that your "official statement" was that you remained at the bar all night, and/or did not point your weapon at anyone, and/or words to that effect, after first having told him you had followed Complainant [redacted] to where he was hiding on a hill, identified yourself as a deputy, and pulled your firearm out to order him to the ground after Complainant [redacted] made a suspicious movement; and/or,

b. When questioned by RCSD, Deputy [redacted] about Complainant [redacted] allegations, you denied seeing anyone follow or pull a gun on him.

2. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations, on or about December 29, 2015, you provided false, dishonest, misleading and/or incomplete statements during an Internal Affairs investigation, as evidenced by, but not limited to:

a. Denying to have followed, confronted, or pointed your firearm at Complainant [redacted] and/or words to that effect; and/or,

b. Denying to have told Deputy [redacted] or Sergeant Van Genderen you followed, confronted, or pointed your firearm at Complainant [redacted] and/or words to that effect; and/or,

c. Stating that the information in Sergeant Van Genderen's report is inaccurate, and/or that you never told Sergeant Van Genderen you gave a different statement because you were scared.

3. That in violation of the Manual of Policy and Procedures Section 3-01/050.30, Off-Duty Incidents, on or about February 27, 2015 and/or February 28, 2015,

you were involved in an off-duty incident where you took police action, involving another law enforcement agency and failed to report that incident to the Los Angeles County Sheriff's Department until March 1, 2015.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Eric G. Parra, on March 15, 2016, at 1500 hours, in his office, which is located at 450 Bauchet Street, Room E826, Los Angeles. If you are unable to appear at the scheduled time and wish to schedule some other time prior to March 15, 2016, for your oral response, please call Chief Parra's secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Parra's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Parra's office by no later than March 17, 2016.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Donnie L. Mauldin, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

DLM:EGP:jr

c: Advocacy Unit
Employee Relations Unit
Chief Eric G. Parra, Custody Services Division
Internal Affairs Bureau
(File #2375584)



CIVIL SERVICE COMMISSION
COUNTY OF LOS ANGELES

October 25, 2017

FINAL COMMISSION ACTION

Subject of Hearing: *Petition of **ALEXANDER DOEVE** for a hearing on his **discharge**, effective April 27, 2016, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 16-128**.

The Civil Service Commission, at its meeting held on October 18, 2017 approved findings in the above-entitled case. The petitioner's objections were overruled.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Lawrence D. Crocker
Executive Director

Enclosure

c: Alexander Doeve
Elizabeth Gibbons
Vincent McGowan
Douglas Boyd

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

In the matter of the ***discharge****, effective April 27, 2016, from the position of Deputy Sheriff, Sheriff's Department, of* **ALEXANDER DOEVE** **(Case No. 16-128)**	))))))))	ORDER OF THE CIVIL SERVICE COMMISSION

On October 18, 2017, the Civil Service Commission of the County of Los Angeles over-ruled the Petitioner's objections. The Commission adopted as its final decision, the findings and recommendation of the Hearing Officer, Douglas Boyd, to sustain the Department.

Dated this 25th day of October, 2017.

Z. GREG KAHWAJIAN, President

DENNIS F. HERNANDEZ, Member

NAOMI NIGHTINGALE, Member

STEVEN AFRIAT, Member

JOHN DONNER, Member

RECEIVED

LOS ANGELES COUN
CIVIL SERVICE COMMIS

JUN 14 2017

COUNTY OF LOS ANGELES
CIVIL SERVICE COMMISSION

In the Matter of the Appeal of	Civil Service Commission Case No. 16-128
ALEXANDER DOEVE	FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDED DECISION
Appellant	Hearing Officer: Douglas R. Boyd, Sr.
- and -	
	Date: June 9, 2017
COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT Respondent	
RIVERSIDE COUNTY SHERIFF'S DEPARTMENT Specially Appearing Respondent	

PREFACE

The above entitled matter was heard by Douglas R. Boyd, Sr., the duly appointed Hearing Officer for the Los Angeles County Civil Service Commission, on March 15, 2017, March 16, 2017, March 28, 2017 and March 30, 2017 at the Kenneth Hahn Hall of Administration, 500 W. Temple St., Room 522, Los Angeles, CA 90012.

APPEARANCES

The County of Los Angeles Sheriff's Department was represented by Vincent McGowan of Hausman & Sosa, LLP, 20750 Ventura Blvd., Suite 105, Woodland Hills, CA, 91364. The Appellant was represented by Elizabeth J. Gibbons of Green & Shinee, 16055 Ventura Blvd., Suite 1000, Encino, CA 91436. The Specially Appearing Respondent Riverside County Sheriff's Department was represented by Steven A. Sherman of Ferguson, Praet & Sherman, 1631 East 18th Street, Santa Ana, CA 92705.

ISSUES TO BE RESOLVED

The Civil Service Commission propounded the following issues to be resolved.

1. Are the charges contained in the Department's Letter of May 3, 2016 true?
2. If any or all are true, is the discipline imposed appropriate?

FACTUAL SUMMARY

Alexander Doeve [redacted]

In August 2006, Doeve entered the Los Angeles County Sheriff's Academy, graduating and being sworn in December 2006.

Deputy Doeve spent his entire career with the Sheriff's Department assigned to Men's Central Jail. [redacted]

[redacted] (Ex. N).

[redacted]

[redacted]

CHRONOLOGY OF INCIDENT AND AFTERMATH

Appellant's [redacted] worked for over ten years as [redacted] Maverick's Bar in Norco. Since [redacted] she usually worked only on Friday nights. In January 2015 [redacted] was assaulted at work by a parolee who grabbed her by the throat, according to Appellant's testimony. After that incident, Appellant started regularly visiting the bar on nights

[redacted] worked to provide her with informal security. He testified that he never worked for the Bar and did not drink while he was there. This testimony was corroborated by the bar owner, [redacted]

It is uncontested that Appellant arrived at Maverick's Bar at approximately 2200 hours on February 27, 2015.

Riverside County Sheriff's Deputy [redacted] testified he went to Maverick's between 10:30 and 11 p.m. that evening in response to a service call and talked to bar owner [redacted] about the car accident involving suspect [redacted] This testimony was corroborated by [redacted] Appellant said he did not see Deputy [redacted] at that time.

Deputy [redacted] and Appellant testified that they had met at Maverick's several times in the two months prior to this incident while [redacted] was conducting routine "bar checks" in the area. They exchanged cell phone numbers at Appellant's request, and had a cordial, professional acquaintance according to both parties.

Testimony from Deputy [redacted] Appellant and [redacted] established that suspect [redacted] called Maverick's Bar numerous times starting around 11 p.m. on February 27, 2015 and continuing until the early morning hours of February 28, 2015 making threats of bodily harm and arson. Several employees took those calls, including [redacted] and, according to Appellant, Appellant's [redacted]

Deputy [redacted] testified that he received a call on his cell phone from Appellant at 2:40 a.m.. They discussed the threatening phone calls and Appellant told [redacted] that [redacted] had earlier run away from the bar, that Appellant followed him up a nearby hill, and that [redacted] made a threatening movement causing Appellant to produce his weapon and [redacted] to run away.

Appellant contends that he never related this sequence of events to [redacted] during this conversation that both parties agree occurred. The parties agree that [redacted] told Appellant to call dispatch to make a report regarding [redacted] phone calls because he could not take the report on his cell phone.

The parties agree that [redacted] returned to the Bar at approximately 3:30 a.m. and spoke to Appellant and [redacted] then asked to see his weapon. Appellant complied. [redacted] told Appellant he needed an official statement from him. The parties agree that Appellant then told [redacted] his official statement was that he was at the bar all night and not involved in the incident with [redacted]

Deputy [redacted] testified that he completed his report (Ex. 8) by the end of his graveyard shift at 8 a.m. on February 28, 2015. His report included both of Appellant's statements.

At 8:15 a.m. on February 28, 2015, [redacted] made a follow up call to the Sheriff's Department. [redacted] took the call as he was familiar with the case. [redacted] advised that although he earlier

said an off duty Riverside County deputy chased him, he now thinks it was a Los Angeles County deputy. He said he wanted to press charges. [redacted] did not go forward on that request but noted Appellant's statements "lack consistency" in his report.

Near midday on February 28, 2015 Riverside County Sheriff's Deputy [redacted] called Appellant regarding the incident the previous evening. Appellant recounted in that conversation the version he gave [redacted] the second time, with [redacted] asking several questions about anyone chasing or pulling a gun on [redacted] Appellant said he didn't see anyone chase [redacted] and did not chase or pull a gun on him personally (Ex. 6). [redacted] did not directly ask Appellant if the chase scene sequence documented by [redacted] in the first conversation between Doeve and [redacted] was accurate.

Appellant contends Deputy [redacted] called him at 11 p.m. on March 1, 2015, and told him that he ([redacted]) was in trouble for not promptly writing a report on this incident, and he had already told his sergeant regarding putting both of Appellant's statements regarding the incident into the report so it was a done deal and Appellant should take whatever action he thought necessary with his own Department. Appellant protested to [redacted] that the first statement was inaccurate and should not have been included. Deputy [redacted] denies this conversation with Appellant and it is uncorroborated elsewhere in the record.

It is uncontested that Appellant called Men's Central Jail Watch Commander Sergeant Jason Van Genderen at approximately 11:30 p.m. on March 1, 2015 to report this incident (Ex. 9). Appellant and Van Genderen were unacquainted, and both testified this conversation was the only time they ever spoke to each other. Van Genderen testified he has been a Los Angeles County Sheriff's Deputy for 18 years [redacted] He estimated he spoke with Appellant for 20 minutes. Van Genderen said Appellant told him that he chased a hit and run suspect that night, found the suspect, identified himself as a law enforcement officer, the suspect lunged at him, Appellant drew his weapon and the suspect fled. It is noted that Van Genderen testified he took contemporaneous notes of this one and only conversation with Appellant. Exhibit 9 and Van Genderen's testimony indicate Appellant told Van Genderen that Appellant told Deputy [redacted] on the evening of February 27, 2015 that he found the suspect, identified himself as an off duty officer and retrieved (drew) his weapon, which the suspect saw.

The Sergeant testified that Appellant next told him that on February 28, 2015 Appellant received a phone call from Riverside County Sheriff's Deputy [redacted] told Appellant he was investigating a report of a brandishing from the previous evening. The Deputy asked Appellant if he or anyone else to his knowledge pointed a weapon at the suspect and Appellant said he did not. Van Genderen wrote in his report (Ex. 9) that Appellant *"stated he changed his statement because he was scared and confused."* Van Genderen testified he told Appellant to write a memo regarding this off duty incident.

Van Genderen testified he called the Riverside County Sheriff's Department promptly after his conversation with Appellant and inquired regarding the brandishing report and whether

Appellant was considered a suspect. He received a return phone call from Riverside County Sheriffs' Department Sergeant [redacted] at approximately 2:45 a.m. saying no report or arrests could be found on this matter and no further information would be provided per instructions from his Lieutenant.

Sergeant Van Genderen testified he then immediately called his superior at Men's Central Jail, Captain Joseph Dempsey, and relayed the information provided by Appellant and the Riverside County Sheriff's Department.

Captain Dempsey instructed Van Genderen to write a report on the incident and he promptly wrote Exhibit 9, which is dated March 2, 2015.

The Los Angeles County Sheriff's Department Internal Affairs Bureau investigated this matter from November 2015 to February 2016. Sergeant Dennis Watters and Sergeant Kimberly Mendoza interviewed Appellant in the presence of his attorney, Elizabeth Gibbons, on December 29, 2015. The recorded 29 page interview is Exhibit 7 in this case.

On February 23, 2016, Division Chief Eric Parra decided to impose the discipline of Discharge, subject to the employee's responses upon notification, based on a summary of the case included in evidence as Exhibit 3. Chief Parra's decision was concurred in by Assistant Sheriff Richard Barrantes, Assistant Sheriff Todd Rogers, Executive Officer Neal Tyler and Sheriff Jim McDonnell.

The Department sent Appellant a Letter of Intention dated February 25, 2016 notifying him of their intent to discharge him effective March 17, 2016 and providing him an opportunity to respond. The letter was signed by Captain Dennis Mauldin of the Internal Affairs Bureau and is included in the record of this case as Exhibit 1.

Appellant exercised his right to respond, but the Department said his response was insufficient to alter the intended discipline.

On May 3, 2016, the Department sent Appellant a Letter of Discharge effective April 27, 2016 and signed by Chief Parra. It is unclear why the letter was dated after the effective date of discharge. This letter is included in the record as Exhibit 2.

This letter notified Appellant of his appeal rights pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

The instant appeal was timely made to the Los Angeles County Civil Service Commission

PITCHESS MOTION

A Motion for Production of Police Officer Personnel Records (Pitchess Motion) was timely made by Appellant on March 8, 2017.

The Department objected to this Motion and requested that the undersigned deny same immediately on March 15, 2017. Department renewed its objection to continued consideration of this Motion several times. A determination was made by the undersigned to consider the Motion and request briefing.

The Motion was heard after conclusion of Department's case in chief on March 28, 2017. The Specially Appearing Riverside County Sheriff's Department was represented by Counsel Steven Sherman. Mr. Sherman authored an Opposition to Motion for Police Officer Personnel Records.

Evidence Code Section 1043 provides parameters for disclosure of police officer personnel records in relevant parts as follows:

"(a) In any case in which discovery or disclosure is sought of peace officer personnel records or records maintained pursuant to Section 832.5 of the Penal Code or information from those records, the party seeking the discovery of disclosure shall file a written motion with the appropriate court or administrative body upon written notice to the governmental agency which has custody and control of the records. The written notice shall be given at the times prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure. Upon receipt of the notice the governmental agency served shall immediately notify the individual whose records are sought.

(b) The motion shall include all of the following:

(1) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery of disclosure, the peace officer whose records are sought, the governmental agency which has custody and control of the records, and the time and place at which the motion for discovery or disclosure shall be heard;

(2) A description of the type of records or information sought; and

(3) Affidavits showing good cause for the discovery of the disclosure sought, setting forth the materiality thereof to the subject matter involved in the pending litigation and stating upon reasonable belief that the governmental agency identified has the records or information from the records.

Both parties provided substantial amounts of case law in support of their respective positions. The undersigned believed consideration of this Motion was proper to protect Appellant's rights, especially considering the career ending potential consequences of the Commission's decision.

There are two levels of proof to consider herein. First, does Appellant meet the probable cause and materiality threshold to merit production of the requested documents? Second, if that threshold is met, is the result of the in camera review by the Judge or Hearing Officer of the examined material such that it will be of substantial probative value to Appellant?

Appellant contends that two Riverside County Sheriff's Deputies reporting Appellant said things that Appellant later states he did not say is sufficient showing of good cause and materiality. However, if that was the standard, every time a police officer's report is different from an Appellant's later recollection the police officers' personnel records would be thrown open for examination. This could not have been legislative intent.

Appellant seeks to strengthen his position regarding materiality by contending that Riverside County Sheriff's Department Sergeant [redacted] statement to Sergeant Van Genderen that they would handle the matter internally was a representation that one or both of the Riverside County Deputies were themselves under investigation for misconduct with regard to their handling of the February 27, 2015 incident. An objective review of the circumstances does not support this contention.

The only other piece of evidence offered by Appellant is a purported phone call from Deputy [redacted] to Appellant in the evening of March 1, 2015 in which [redacted] says he is in trouble for not including the brandishing incident in the criminal threats investigation and had tried to correct this oversight by including this assertion regarding Appellant's chase and confrontation of [redacted] in a report to his Sergeant. Such a turn of events would indeed support materiality, but is denied by Deputy [redacted] and not supported elsewhere.

Another relevant feature in case law for consideration herein is claimed disparate treatment by an employee for similar conduct. While courts have ruled that identical treatment is not required, Special Counsel makes the point well taken that this is considered by the courts usually in the context of employees within the same department, or at least the same county, and therefore the same personnel structure and disciplinary system for the purpose of an apples to apples comparison. This is not the case herein.

Appellant also points to Evidence Code Section 1045 (a) in support of his position which states:

> *(a) Nothing in this article shall be construed to affect the right of access to records of complaints, or investigations of complaints, or discipline imposed as a result of such investigations, concerning an event or transaction in which the police officer participated, or which he perceived, and the manner in which he performed his duties, provided that such information is relevant to the subject matter involved in the pending litigation.*

Appellant accurately notes in his brief that neither section noted above grants an Appellant absolute privilege in the information sought in this Motion.

Appellant is correct that these sections require the undersigned to determine whether Appellant has shown good cause for advancement to stage two of the Pitchess procedure, an in camera review of the documents requested.

The California Supreme Court discussed the nature of good cause as having four prongs in the context of a Pitchess motion:

1. Whether the requesting party has shown a logical connection between the pending charges and his/her proposed defense.
2. Whether the requesting party's request for Pitchess discovery is factually specific and tailored to support its claim of officer misconduct.
3. Whether the requested Pitchess discovery supports the proposed defense or would likely lead to information that would support the defense.
4. Under what theory would the requested information be admissible at trial. (Warrick v. Superior Court (2005) 35 Cal. 4th 1011, 1027.)

Appellant's Motion is very broad in scope and the factual connection to this specific case is very thin. The uncontested testimony of Deputy [redacted] is that he graduated from the Academy in 2008, was sworn as a Riverside County Sheriff's Deputy in 2009, has no prior military experience, was initially assigned to the Banning jail for almost five years, then assigned to Southwest Station patrol, completed 18 weeks of patrol training, and has been assigned to the Jurupa Valley station as a patrol deputy for the last three years. He was at the Norco substation from January to May 2015. His prior contacts with Appellant were three or four in number and occurred during routine "bar checks" as part of his patrol duties according to both parties. They exchanged cell phone numbers at Appellant's request after discussing the assault on Appellant's [redacted] in January 2015, and had a cordial professional acquaintance according to both parties.

Deputy [redacted] responded the first time on the date in question to Maverick's Bar in response to a call concerning the presence of a hit and run suspect. He responded the second time in response to calls regarding phone threats made against the bar owner, employees of the bar, his [redacted] and arson regarding the bar itself. One of those calls requesting assistance in the second instance was made by Appellant to [redacted] cell phone. The Deputy took statements from Appellant on the cell phone conversation and during his second visit to the Bar, and put both statements in the report he wrote at the end of his graveyard shift at 8 a.m. on February 28, 2015.

The record demonstrates that Deputy [redacted] is a trained and experienced patrol officer who was performing routine police duties on the evening of February 27, 2015. Nothing in his record or conduct that evening is indicative of a propensity for lying. His relationship with Appellant was slight but cordial. No animosity or any other motive to cause harm to Appellant is ascertainable from the record, aside from Appellant's self-serving testimony about the March 1, 2015 late evening phone call.

Regarding Deputy [redacted] it is uncontested that his only contact with Appellant was as a follow-up phone call to the February 27, 2015 incident as a routine part of his police duties. Deputy [redacted] was not presented as a witness in this case. Nothing in the record of this case indicates the slightest hint of wrongdoing on his part. If this level of contact meets the threshold for good cause and materiality on a Pitchess motion, then so does Appellant's contact with Sergeant Van Genderen and Chief Parra.

The undersigned determined that the good cause and materiality requirements of statute and case law had not been met, and so denied the Motion to Produce Police Personnel Records on March 28, 2017.

SUMMARY OF WITNESS TESTIMONY

The Department presented three witnesses and 24 exhibits in its case in chief.

Riverside County Sheriff's Deputy [redacted] testified at length as described earlier regarding the Pitchess motion. His demeanor was calm and professional as he recounted his training and experience, along with responses to many detailed questions from both sides. He appeared nonplussed by Appellant's inconsistent statements because he said the positive police action Appellant took appeared proper. Deputy [redacted] testified he advised Appellant after their second conversation that both his statements would be included in his report of the incident. He said he received a voicemail from Appellant at a later time but did not call Appellant back. Appellant's message was that he "fell on his sword" in talking to his supervisor about the incident.

Sergeant Jason Van Genderen testified he had been a Los Angeles County Sheriff's Deputy for 18 years [redacted] Van Genderen said he did not know Appellant at all and only spoke to him one time on the evening of March 1, 2015 at 11:30 p.m. for approximately 20 minutes. He was serving as Watch Commander that night and Appellant called him to report the off duty incident at Maverick's two days earlier.

Van Genderen testified he was unclear regarding Appellant's status in the case after their conversation. He said Appellant told him of his conversation with Deputy [redacted] regarding the brandishing allegation. Appellant said he did not know whether or not he was a suspect. Van Genderen did not recall on cross examination Appellant telling him that Deputy [redacted] was under investigation for not writing a report, or that Appellant had spoken to [redacted] on March 1, 2015. Van Genderen testified that he wrote in his report (Ex. 9) the sum of what Appellant told him.

The decision maker, Chief Eric Parra, testified he has been a Los Angeles County Deputy Sheriff for 30 years. He served as a Deputy, Sergeant, Lieutenant, Captain, and Commander and has

been a Division Chief since 2013. He is presently Chief of the Custody Services Division which includes the Men's Central Jail.

Chief Parra testified he knew Appellant professionally through work at Men's Central Jail and had great respect for his father, a retired Sheriff's investigator.

Chief Parra said he considered the Department's exhibits, the field staff report and then the Internal Affairs investigation and report in making his decision. He noted [redacted] Chief Parra said after full consideration of Appellant's false statements [redacted] discharge was the proper discipline in this case. He noted that Appellant's actions with the suspect were not a problem, but lying about it was a problem. On cross examination, Chief Parra said he gave suspect [redacted] testimony minimal weight. He said he took into consideration the fact that Appellant reported the incident, but pointed out Appellant did so only after finding out the Riverside County Sheriff's Department was investigating the brandishing allegation. Parra also said he considered whether Appellant was confused, and noted that Sergeant Van Genderen said he sounded upset and nervous.

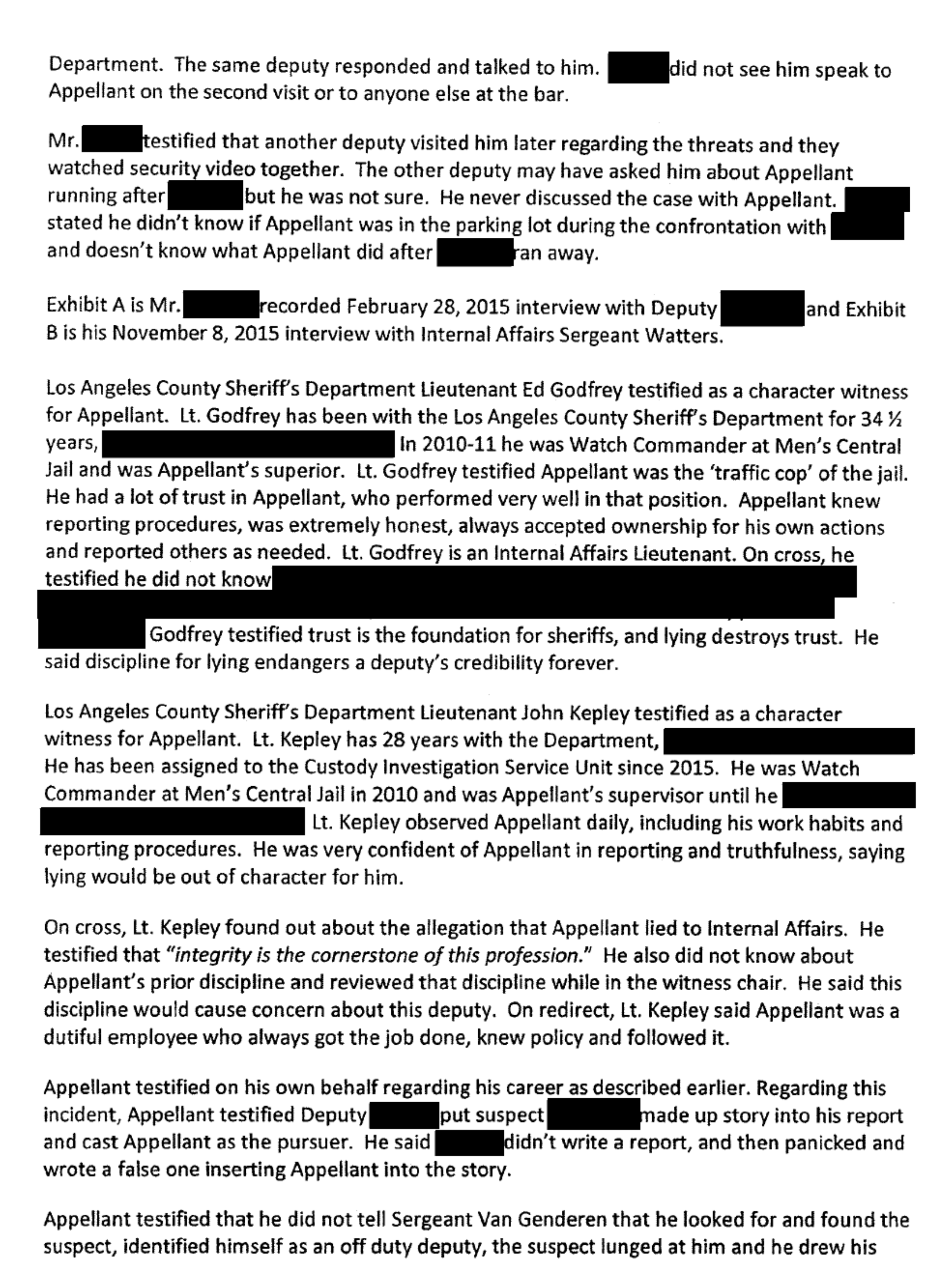
Appellant presented four witnesses, including himself, and 14 exhibits in his case in chief.

Witness [redacted] testified he served as a [redacted]

Mr. [redacted] demeanor was open, honest and impartial. He testified Appellant's [redacted] worked for him at Maverick's for a long time. He has known Appellant for four years and doesn't know Deputy [redacted] Suspect [redacted] had backed into his van with his truck several weeks earlier and [redacted] identified him via security camera recordings. His bouncers advised him on the evening of February 27, 2015 that [redacted] was in the bar. [redacted] confronted [redacted] in the parking lot with a bouncer. [redacted] gave him his vehicle registration and insurance, but the insurance was expired. [redacted] said he was going to call the Sheriff and [redacted] ran away. No one chased him. [redacted] said he remained in the parking lot for quite a while until a tow truck came and towed [redacted] car away.

Mr. [redacted] testified a Sheriff's deputy came to Maverick's and they talked about the hit and run and that [redacted] ran away. He did not tell the deputy that Appellant or anyone else ran after [redacted]

[redacted] later called the bar numerous times and spoke to Mr. [redacted] among others. [redacted] testified [redacted] said he had an assault rifle and could shoot him from the hill and that he and his friends were going to bury him. [redacted] was scared for his safety and called the Sheriff's


Department. The same deputy responded and talked to him. [redacted] did not see him speak to Appellant on the second visit or to anyone else at the bar.

Mr. [redacted] testified that another deputy visited him later regarding the threats and they watched security video together. The other deputy may have asked him about Appellant running after [redacted] but he was not sure. He never discussed the case with Appellant. [redacted] stated he didn't know if Appellant was in the parking lot during the confrontation with [redacted] and doesn't know what Appellant did after [redacted] ran away.

Exhibit A is Mr. [redacted] recorded February 28, 2015 interview with Deputy [redacted] and Exhibit B is his November 8, 2015 interview with Internal Affairs Sergeant Watters.

Los Angeles County Sheriff's Department Lieutenant Ed Godfrey testified as a character witness for Appellant. Lt. Godfrey has been with the Los Angeles County Sheriff's Department for 34 ½ years, [redacted] In 2010-11 he was Watch Commander at Men's Central Jail and was Appellant's superior. Lt. Godfrey testified Appellant was the 'traffic cop' of the jail. He had a lot of trust in Appellant, who performed very well in that position. Appellant knew reporting procedures, was extremely honest, always accepted ownership for his own actions and reported others as needed. Lt. Godfrey is an Internal Affairs Lieutenant. On cross, he testified he did not know [redacted] Godfrey testified trust is the foundation for sheriffs, and lying destroys trust. He said discipline for lying endangers a deputy's credibility forever.

Los Angeles County Sheriff's Department Lieutenant John Kepley testified as a character witness for Appellant. Lt. Kepley has 28 years with the Department, [redacted] He has been assigned to the Custody Investigation Service Unit since 2015. He was Watch Commander at Men's Central Jail in 2010 and was Appellant's supervisor until he [redacted] Lt. Kepley observed Appellant daily, including his work habits and reporting procedures. He was very confident of Appellant in reporting and truthfulness, saying lying would be out of character for him.

On cross, Lt. Kepley found out about the allegation that Appellant lied to Internal Affairs. He testified that *"integrity is the cornerstone of this profession."* He also did not know about Appellant's prior discipline and reviewed that discipline while in the witness chair. He said this discipline would cause concern about this deputy. On redirect, Lt. Kepley said Appellant was a dutiful employee who always got the job done, knew policy and followed it.

Appellant testified on his own behalf regarding his career as described earlier. Regarding this incident, Appellant testified Deputy [redacted] put suspect [redacted] made up story into his report and cast Appellant as the pursuer. He said [redacted] didn't write a report, and then panicked and wrote a false one inserting Appellant into the story.

Appellant testified that he did not tell Sergeant Van Genderen that he looked for and found the suspect, identified himself as an off duty deputy, the suspect lunged at him and he drew his

weapon fearing for his safety as reported in Exhibit 9. Appellant also denied telling Van Genderen that he reported these actions to Deputy [redacted] as recounted in Exhibit 9. He also denied telling Sergeant Van Genderen that he changed his statement when talking to Dep. [redacted] because he was confused and scared.

Appellant testified that he told the truth to Internal Affairs investigators at all times.

DISCUSSION OF THE CHARGES

Civil Service Rule 4.12 provides that the Department carries the burden of proof regarding the allegations contained in the Letter of Discharge. The evidentiary standard in this civil proceeding is proof by a preponderance of the evidence. The Department must show that the charges contained herein are more likely than not to be true. If they are true by this preponderance or majority of the evidence, our discussion will move to the proportionality of the punishment meted out for these offenses.

It is noted that the preponderance standard is the lowest of three major evidentiary standards. Higher standards are proof by clear and convincing evidence and the highest standard, used in criminal cases, of proof beyond a reasonable doubt.

Appellant was discharged for three offenses. They are:

1) Knowingly providing false and misleading statements to the Riverside County Sheriff's Department.
2) Providing false, dishonest, misleading and or incomplete statements during an Internal Affairs investigation.
3) Being involved in an off duty incident where he took police action involving another law enforcement agency on February 27 and 28, 2015 and failing to report that incident to the Los Angeles County Sheriff's Department until March 1, 2015.

FIRST CHARGE – False and Misleading Statements to Riverside County Sheriff's Department

The Department charged Appellant with providing false and misleading information to Deputies [redacted] and [redacted] during the course of a criminal investigation where Complainant [redacted] alleged Appellant followed him and pointed a gun at him.

Specifically, in Subsection a. on the second page of the Letter of Discharge (Ex. 2),

> *"On or about February 27, 2015 and/or February 28, 2015, while off-duty, you knowingly provided false and misleading statements to Riverside County Sheriff's Department (RCSD) deputies during the course of their criminal investigation, when after being involved in an incident where Complainant [redacted] alleged that you followed him and pointed a firearm at his head. You provided false information to Riverside County*

Sheriff's deputies regarding your involvement, bringing discredit and embarrassment upon yourself and/or the Los Angeles County Sheriff's Department, as evidenced by but not limited to:

a. *Stating to RCSD Deputy* [redacted] *that your "official statement" was that you remained at the bar all night, and/or did not point your weapon at anyone, and/or words to that effect, after first having told him you had followed Complainant* [redacted] *to where he was hiding on a hill, identified yourself as a deputy, and pulled your firearm out to order him to the ground after Complainant* [redacted] *made a suspicious movement; and/or,*

b. *When questioned by RCSD, Deputy* [redacted] *about Complainant* [redacted] *allegations, you denied seeing anyone follow or pull a gun on him.*

All of the sworn Los Angeles County Sheriff's Department personnel in this case testified that honesty and integrity is the necessary foundation for service as a police officer in general and for the Los Angeles County Sheriff's Department in specific. Chief Parra and Appellant's character witness Lt. Kepley made some of the strongest statements in this regard. This position is further supported by Exhibit 13, Core Values of the Los Angeles County Sheriff's Department. Two of the five highlighted core values are "Integrity" and "Accountability". Accountability is described as *"holding ourselves and each other accountable for our actions at all times."*

It is noted that Appellant specifically agreed in his testimony that honesty and integrity are essential for a member of the Los Angeles County Sheriff's Department.

Appellant's case is largely focused on the evidence regarding the purported chase, how unlikely the alleged course of action Appellant took is to be true, how it made little sense for Appellant to take that course of action, how disreputable and unreliable the statements of [redacted] were, how the duty weapon of Appellant was dramatically different from the one [redacted] described (Ex. L), how Appellant's only interest in being there was the safety of [redacted] and how he had nothing to drink that evening.

Appellant's counsel makes these points well, but they are beside the point of this charge. The charge is that Appellant told Deputy [redacted] two different stories about his conduct during the same incident in the course of [redacted] criminal investigation. Either [redacted] lied in his report, an action that could result in his discharge, or Appellant lied in one or both of the two versions he gave to [redacted] an action that could result in his discharge.

[redacted] motivations for his actions that evening are clear; he was doing his job as the assigned patrol deputy out of the Norco substation in responding to multiple calls for assistance from Maverick's Bar. Appellant's motivations are less clear. He was off-duty, at a bar, and reasonably concerned about [redacted] safety. [redacted] safety had nothing to do with the initial incident with [redacted] in the parking lot or his purported pursuit of same. The question

for us to answer is; did Appellant lie in his statements regarding his actions or did Deputy [redacted] lie in his statements and his report of the events that evening? The testimony at Hearing of the two deputies is irreconcilably at odds with each other.

In Subsection "b." on the second page of the Letter of Discharge (Ex. 2), the charge is that;

> c. When questioned by RCSD Deputy [redacted] about Complainant [redacted] allegations, you denied seeing anyone follow or pull a gun on him.

Deputy [redacted] was unfamiliar with Appellant prior to their conversation on February 28, 2015. He was following up on the brandishing allegation by [redacted] when he called Appellant. He did not accuse Appellant, but rather inquired regarding what he saw and did (Ex. F). Appellant stated to him that he did not follow or draw a weapon on [redacted] and did not see anyone else chase him or draw a weapon.

In this conversation with Deputy [redacted] Appellant confirmed his second account, his "official statement" concerning the previous night's incident. He did not mention his first account. Appellant affirmatively told [redacted] that he did not see anyone pursue [redacted] or draw a weapon on him. "Anyone" includes Appellant himself.

The Department has met its burden of proof on the First Charge. The testimony of Deputies [redacted] and [redacted] as confirmed by the testimony of Sergeant Van Genderen, is more believable than the testimony of Appellant.

<u>SECOND CHARGE –Providing False, Dishonest, Misleading and/or Incomplete Statements During an Internal Affairs Investigation</u>

The evidence shows the Los Angeles County Sheriff's Department Internal Affairs Bureau conducted an investigation into this case from November 2015 through February 2016.

The record with them includes Appellant's interview (Ex. 7), [redacted] interview (Ex. 22, 24), [redacted] interview (Ex. D), Deputy [redacted] interview (Ex. F), Deputy [redacted] email (Ex. 10), and a seven page Investigative Summary prepared by Internal Affairs at the conclusion of their investigation (Ex. 4). Exhibit 4 includes a January 2, 2016 Internal Affairs interview with Sergeant Van Genderen on page 4 confirming his account of his conversation with Appellant as memorialized in Exhibit 9.

Internal Affairs investigators interviewed Appellant in the presence of Counsel on December 29, 2015. Appellant confirmed his second account of the incident, to wit, that he did not follow [redacted] identify himself as an off-duty officer and draw his weapon. He told Sergeant Dennis Watters and Sergeant Kimberly Mendoza that he had no contact with [redacted] did not follow, confront or point a weapon at him, and remained at the bar until after closing when he followed his wife home. Appellant told the investigators that he never said to Sergeant Van

Genderen on the phone at 11:30 p.m. on March 1, 2015, that he had followed [redacted] identified himself as a deputy and drew his weapon after [redacted] lunged at him. Appellant also denied to the investigators that he told Van Genderen that he changed his story when talking to Deputy [redacted] because he was scared and confused.

It is important to highlight that Sergeant Van Genderen occupied the extremely important position of Watch Commander at Men's Central Jail when he fielded the call from Appellant. It was his job to field that call and follow policy in documenting it. Appellant called Van Genderen solely because he was Watch Commander at that date and time. Both parties agree that they did not know each other prior to that call, or have any contact after that one telephone call. It is uncontested and clear to all parties herein that writing a false police report is grounds for discharge. Why would Sergeant Van Genderen risk his career to damage the career of someone he doesn't know by writing a false report?

Sergeant Van Genderen did not talk to Deputy [redacted] or anyone involved with this incident other than Appellant on the night of March 1, 2015 when he wrote his report. He called the Riverside County Sheriff's Department and learned they had no information or arrests in this matter and would investigate internally. He then called his Captain who told him to write a report. He testified he did so immediately. He also testified he took contemporaneous notes of his conversation with Appellant, and said the conversation was fresh in his mind when he wrote his report (Ex. 9).

Regarding the Second Charge, either Deputy [redacted] Deputy [redacted] and Sergeant Van Genderen all lied to Internal Affairs investigators or Appellant lied to Internal Affairs investigators.

The Department has met its burden of proof on the Second Charge. Building upon the finding in the First Charge, the testimony of the other witnesses to the Internal Affairs investigators is more believable than Appellant's testimony to the Internal Affairs investigators (Ex. 4).

It is noted that Sergeant Van Genderen testified he told Appellant to write a report and never received one. Appellant's Counsel objected that failure to write a report was not considered by the Commission in setting the scope of inquiry, and not included as a reason for discharging Appellant by the Department. Therefore, the undersigned did not consider Appellant's failure to write a report in evaluating or making recommendations in this case (Ex. 15).

THIRD CHARGE – Being Involved in Off Duty Incident Including Police Action and Other Police Agency and Failing to Immediately Report Same

This is the third off-duty incident for which Appellant has been disciplined within the past ten years. In 2007 and 2008, he was involved in two separate off-duty incidents which resulted in a Reprimand and a Suspension. Appellant testified that after the Suspension, he was ordered to take classes in Off-Duty Incidents and Report Writing. He further testified that he was required

to perform a 20 minute training demonstration for all three shifts at work. Chief Parra emphasized that both prior disciplines were for off-duty incidents in his testimony, and that this third incident was also for off-duty conduct.

Appellant's Training Index (Ex. 11) [redacted]

The record demonstrates that the Department went to great lengths to ensure Appellant understood all aspects of his off-duty conduct responsibility and accountability.

Appellant contends he met the immediate reporting standard by calling Sergeant Van Genderen after realizing he may be considered a suspect. This call came 48 hours after the incident in question and 36 hours after Appellant received a call from Deputy [redacted] concerning a brandishing incident in which [redacted] questioned Appellant regarding his involvement. Appellant told Watch Commander Van Genderen that after the call with [redacted] he was unsure whether he was a suspect. Using Appellant's version of events, he should have called his Watch Commander no later than immediately following his conversation with [redacted] It is clear that Los Angeles County Sheriff's Department policy is to resolve any question or doubt in favor of reporting. Appellant testified he had done so many times in regards to contacts with his wife's ex-husband, and that he reported all of these contacts right away just to be sure he was in compliance with Department reporting policy.

The Department has met its burden of proof on the Third Charge.

Based on the foregoing discussion, we answer the Commission's first question, *"Are the charges contained in the Department Letter of May 3, 2016 true?"* in the affirmative.

We now turn our attention to their second question, *"If any or all are true, is the discipline imposed appropriate?"*

SKELLY CONSIDERATIONS

Skelly v. State Personnel Board (1975) 15 Cal. 3d 194 is the foundational case for the framework of public employee discipline in California.

A review of the facts and circumstances of this case under the *Skelly* standard is the proper one for determination of punishment in light of the progressive system of discipline. The progressive system of discipline was developed in California over decades to provide for appropriate discipline of employee transgressions while encouraging employees to change their behaviors so as to incur no further discipline. This progression has been validated numerous

times by California courts and repeatedly supported by the Legislature in the continuing effort to protect the public interest while at the same time supporting public employees over their careers and providing opportunities to correct errant behaviors.

Progressive discipline starts with private reproval and then moves to official reprimand, followed by suspension for an increasing period of days and ultimately leading to potential dismissal from public service.

In the instant case, Appellant received a Reprimand and a 7 day Suspension for two separate instances of misconduct within his first two years as a Deputy (Ex. 17, 18). In aggravation, both prior charges included failure to promptly report off duty incidents. In mitigation, both incidents occurred early in Appellant's career and he successfully completed training in Off-Duty Conduct and Report Writing following his Suspension.

This incident is the third by Appellant involving failure to promptly report an off duty incident to his superior. There can be no question that Appellant knew exactly what to do and why. Therefore, his failure to promptly report is even more egregious.

This situation alone calls for increased discipline from the last suspension as regards the Third Charge. The Discipline Guidelines on Page 4 of Exhibit 3 lists 3-10 days Suspension as appropriate disciplinary penalties for this violation.

The Discipline Guidelines list 25 days Suspension to Discharge as appropriate discipline for Making False Statements During Departmental Internal Investigations (Second Charge).

They list Discharge as appropriate discipline for False Statements (First Charge).

Chief Parra indicated he considered lesser discipline in making his decision and rejected it as an insufficient response to the seriousness of these offenses.

Appellant made no *Skelly* procedural objections, except for the report writing request by Sergeant Van Genderen that was not taken into consideration by the undersigned. Based on the foregoing, we answer the Commission's second question in the affirmative.

FINDINGS OF FACT

The following findings of fact are made:

1. Appellant has been a highly rated Deputy in the Los Angeles County Sheriff's Department since 2006.

2. Appellant was assigned to Men's Central Jail his entire career.

3. [redacted]

4. [redacted]

5. Appellant was involved in an off-duty incident at Maverick's Bar in Norco on the evening of February 27, 2015.

6. During this incident, Appellant chased or followed fleeing suspect [redacted] confronted him and identified himself as an off-duty police officer, and drew his department issued weapon after [redacted] lunged at him. [redacted] then ran away. No physical contact was made between the parties.

7. Appellant called Deputy [redacted] on his cell phone at 2:40 a.m. on February 28, 2015 regarding [redacted] making threats and told [redacted] that earlier he had followed suspect [redacted] up a hill, identified himself as a deputy, [redacted] lunged at him causing him to draw his weapon and [redacted] to run away. [redacted] advised Appellant to call dispatch regarding the threats.

8. Appellant spoke again with Deputy [redacted] at the Bar at approximately 3:30 a.m. on February 28, 2015. He denied chasing or producing a weapon on [redacted] and said his "official statement" was he was in the Bar all night (Ex. 8).

9. At midday on February 28, 2015, Appellant was called by Riverside County Sheriff's Deputy [redacted] Appellant denied seeing anyone follow or draw a weapon on [redacted] (Ex. 6).

10. At approximately 11:30 p.m. on March 1, 2015, Appellant called Los Angeles County Sheriff's Department Sergeant and Men's Central Jail Watch Commander Jason Van Genderen to report the February 27, 2015 incident. Appellant told him that he looked for and found [redacted] identified himself as a deputy, the suspect lunged at him so he drew his department issued weapon and [redacted] ran away. Appellant related to Van Genderen that he also told this sequence of events to Deputy [redacted] on the evening of February 27, 2015.

11. Appellant further told Van Genderen that when Deputy [redacted] called him at midday on February 28, 2015 investigating this brandishing call, he told [redacted] that he did not see anyone follow or point a gun at [redacted] He advised Van Genderen that he changed his story because he was scared and confused.

12. Sergeant Van Genderen called the Riverside County Sheriff's Department seeking further information immediately after his conversation with Appellant and was told by

Sergeant [redacted] at 2:45 a.m. on February 28, 2015 that there were no arrests or reports and that they would investigate internally.

13. Sergeant Van Genderen immediately called Captain Dempsey who told him to write a report, which he did promptly after being told to do so.

14. On the morning of March 2, 2015, Los Angeles County Sheriff's Department Lieutenant Jones arrived at Appellant's house and relieved him of duty.

15. The Internal Affairs Bureau conducted an investigation in late 2015 and early 2016. They interviewed Appellant on December 29, 2015. Appellant told the investigators he did not follow, confront or draw a weapon on [redacted] and did not tell either Deputy [redacted] or Sergeant Van Genderen that he did.

16. Appellant told Internal Affairs investigators he never told Van Genderen that he changed his story when talking to Deputy [redacted] because he was scared and confused.

17. Appellant was discharged by Chief Parra effective April 27, 2016 by letter dated May 3, 2016 and this appeal timely followed.

18. Witness [redacted] was a credible witness.

19. Complainant and suspect [redacted] based on his actions and repeated changes in his statements regarding what happened during this sequence of events, is minimally credible as noted by Chief Parra.

CONCLUSIONS OF LAW

The following Conclusions of Law are made:

1. The three charges contained in the Department's Letter of Discharge dated May 3, 2016 are true.

2. The discipline imposed by the Department is appropriate and proportionate to the offense.

RECOMMENDATIONS

It is recommended that the Department's decision in this matter be upheld.

Dated: June 9, 2017

Respectfully Submitted,

Douglas R. Boyd, Sr.
Hearing Officer



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE



JIM MCDONNELL, SHERIFF

May 3, 2016

Date of Department Hire 08/02/2006

Deputy Alexander Doeve, #[redacted]
[redacted]

Dear Deputy Doeve:

On February 25, 2016, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2375584. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on April 27, 2016.

An investigation under File Number IAB 2375584, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations, and Orders; and/or 3-01/040.70, False Statements; and/or 3-01/040.76, Obstructing an Investigation; and/or 3-01/030.05, General Behavior; and/or 3-01/000.13, Professional Conduct, on or about February 27, 2015 and/or February 28, 2015, while off-duty, you knowingly provided false and misleading statements to Riverside County Sheriff's Department

(RCSD) deputies during the course of their criminal investigation, when after being involved in an incident where Complainant [redacted] alleged that you followed him and pointed a firearm at his head. You provided false information to Riverside County Sheriff's deputies regarding your involvement, bringing discredit and embarrassment upon yourself and/or the Los Angeles County Sheriff's Department, as evidenced by but not limited to:

a. Stating to RCSD Deputy [redacted] that your "official statement" was that you remained at the bar all night, and/or did not point your weapon at anyone, and/or words to that effect, after first having told him you had followed Complainant [redacted] to where he was hiding on a hill, identified yourself as a deputy, and pulled your firearm out to order him to the ground after Complainant [redacted] made a suspicious movement; and/or,

b. When questioned by RCSD, Deputy [redacted] about Complainant [redacted] allegations, you denied seeing anyone follow or pull a gun on him.

2. That in violation of the Manual of Policy and Procedures Section 3-01/040.75, Dishonesty/Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations, on or about December 29, 2015, you provided false, dishonest, misleading and/or incomplete statements during an Internal Affairs investigation, as evidenced by, but not limited to:

a. Denying to have followed, confronted, or pointed your firearm at Complainant [redacted] and/or words to that effect; and/or,

b. Denying to have told Deputy [redacted] or Sergeant Van Genderen you followed, confronted, or pointed your

firearm at Complainant [redacted], and/or words to that effect; and/or,

c. Stating that the information in Sergeant Van Genderen's report is inaccurate, and/or that you never told Sergeant Van Genderen you gave a different statement because you were scared.

3. That in violation of the Manual of Policy and Procedures Section 3-01/050.30, Off-Duty Incidents, on or about February 27, 2015 and/or February 28, 2015, you were involved in an off-duty incident where you took police action, involving another law enforcement agency and failed to report that incident to the Los Angeles County Sheriff's Department until March 1, 2015.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 500 W. Temple Street, Room 522, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

ERIC G. PARRA, CHIEF
CUSTODY SERVICES DIVISION-GENERAL POPULATION

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

EGP:KM:JMR:jd

cc: Advocacy Unit
Eric G. Parra, Chief, Custody Services Division-General Population
Joseph E. Dempsey, Captain, Men's Central Jail
Internal Affairs Bureau
Kimberly L. Unland, Captain, Personnel Administration